

N.D.A.G. Letter to Sanstead (June 5, 1986)

June 5, 1986

Dr. Wayne G. Sanstead
Superintendent
Department of Public Instruction
State Capitol
Bismarck, ND 58505

Dear Dr. Sanstead:

Thank you for your letter of May 16, 1986, concerning the Department of Public Instruction's authority under N.D.C.C. §§ 39-28-02 and 39-28-03. Specifically, your question is whether the Department of Public Instruction has the authority to direct schools and organizations which administer the motorcycle safety course to charge a reasonable fee to students who take the course.

In 1979, the North Dakota Legislature enacted N.D.C.C. Ch. 39-28, which deals with motorcycle safety education. In enacting this section, the Legislature gave the Superintendent of Public Instruction the authority to establish requirements for instructional standards, course approval, and teacher certification standards for motorcycle safety courses. These courses may be offered by public schools or approved organizations. The Legislature also gave the Superintendent the authority to adopt rules governing the operation of motorcycle safety courses, administer moneys, conduct audits, and otherwise examine the records and accounts of approved motorcycle safety courses. N.D.C.C. 34-28-02.

In order to fund these motorcycle safety courses, the Legislature determined that the Superintendent shall reimburse public schools and organizations offering approved motorcycle safety courses for the actual costs of the courses. N.D.C.C. §39-28-03.

In light of N.D.C.C. §39-28-03, it is my opinion that the Department of Public Instruction may not direct schools or organizations to charge a reasonable fee for students who take the motorcycle safety course. It is the clear intent of the Legislature that the Superintendent of Public Instruction shall reimburse schools and organizations for the actual costs of the motorcycle safety course. Legislative change would be needed to allow the Department to charge such a fee.

Sincerely,

Nicholas J. Spaeth

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